

Katoomba Trust Ordinance 2003

(Reprinted under the Interpretation Ordinance 1985.)

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Katoomba Trust.

Preamble

Whereas –

- A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the trustee of the property described in column 1 of the table in Schedule 1 (the "CPT Property").
- B. The Bishop of Sydney is the trustee of the property described in column 1 of the table in Schedule 2 (the "Bishop's Property").
- C. The CPT Property and the Bishop's Property (the "Existing Property") described in column 1 of the table in Schedules 1 and 2 respectively are held on the trusts described in the corresponding column 2 of those Schedules.
- D. By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts.
- E. It is also expedient to consent to the Bishop's Property being vested in the Property Trust, the corporate trustee of the Diocese of Sydney.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name of this ordinance

This Ordinance is the Katoomba Trust Ordinance 2003.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts, and

- (a) it is inexpedient that the Existing Property be held for the same or like purposes as the trusts on which the Existing Property is held; and
- (b) it is expedient that power be given to the Property Trust to lease or licence from time to time any part of the real property forming part of the trust fund.

3. Definition of “trust fund”

In this Ordinance –

“trust fund” means –

- (a) the Existing Property; and
- (b) all real and personal property received or acquired by the Property Trust from time to time as an addition to the trust fund.

4. Name of the trust fund

The trust fund is to be known as the Katoomba Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the provisional parish of Katoomba (the “Parish”).

6. Capital of the trust fund

(1) Subject to clause 10, any real property which forms part of the capital of the trust fund, may be used for one or more of the following purposes –

- (a) a church;
- (b) a residence for the minister, an assistant minister or any person employed by the churchwardens of a church in the Parish;
- (c) a hall or halls;
- (d) a school or other place of assembly;
- (e) any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).

(2) Any personal property which forms part of the capital of the trust fund may be applied by the Property Trust for one or more of the following purposes –

- (a) the payment of all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund; and
- (b) the costs of maintenance and repair of any property forming part of the trust fund required to meet minimum standards of maintenance and repair prescribed by Act, Regulation, Order or other law and applying to that property; and
- (c) to the extent such personal property arises from a payment made to the Property Trust by the churchwardens of a church in the Parish for the purpose of enabling the Property Trust to make a payment under any contract made or to be made by the Property Trust as trustee of the trust fund with the approval of a majority of the parish council, for that purpose; and
- (d) for such purposes as the Standing Committee may direct by ordinance or resolution.

(3) Pending application under clause 6(2), any personal property which forms part of the capital of the trust fund is to be invested.

(4) If the churchwardens of a church in the Parish make a payment to the Property Trust as an addition to the trust fund for the purpose of enabling the Property Trust to make a payment under any contract made or to be made by the Property Trust as trustee of the trust fund and –

- (a) the full amount of the payment made by the churchwardens is not required by the Property Trust for that purpose, the Property Trust may pay to the churchwardens an amount equal to the excess; or
- (b) the Property Trust claims an input tax credit (as defined in the *New Tax System (Goods and Services) Act 1999*) in respect of the payment made under the contract, the Property Trust may pay to the churchwardens an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the churchwardens is less than the payment made by the Property Trust).

7. Application of the income of the trust fund

(1) The income of the trust fund (other than income referred to in clause 7(2)), after paying all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, is to be applied as follows –

- (a) 30% is to be capitalised, and
- (b) the balance is to be paid to the churchwardens of the church of the Parish or, if there is more than one church, the churchwardens of the principal church of the Parish, to be applied for such purposes of the Parish as the parish council may from time to time determine.

(2) The income of the trust fund arising from a residential lease granted pursuant to clause 9(1) for a weekly rental which does not exceed \$750 or such other amount as the Standing Committee determines by resolution is to be applied in accordance with clause 7(1)(b).

8. Review

(1) The authority to apply income under clause 7(1)(b) earned after the review date terminates on the review date.

(2) For the purposes of subclause (1) “review date” means the date which is 5 years after the date this Ordinance commences or such later date as the Standing Committee approves from time to time by resolution.

(3) Any review of the application of income under clause 7(1)(b) must take into account the repair and maintenance of the building or other improvement situated on any real property which forms part of the capital of the trust fund in order to comply with the Heritage Act 1977.

9. Powers – leasing and licensing of real property

(1) With the written consent of the parish council of the Parish, the Property Trust may lease or licence any part of the real property forming part of the trust fund, except any part which is consecrated or licensed for use as a church, if the term of the lease or licence (when aggregated with the term of any option to renew such lease or licence) does not exceed 5 years.

(2) Nothing in this clause limits the powers of the Property Trust under the Anglican Church Property Trust Ordinance 1965 or under any other ordinance.

10. Columbarium

The land comprised in Folio Identifier 1/501006 and Volume 9472 Folio 144 may, subject to clause 14B of the Church Grounds and Buildings Ordinance 1990, be used for a columbarium in addition to the uses referred to in clause 6(1).

11. Consent to vesting

Under section 19 of the Anglican Church of Australia Trust Property Act 1917, consent is given to the Bishop’s Property being vested in the Property Trust, the corporate trustee of the Diocese of Sydney.

12. Commencement

(1) Subject to clause 12(1), this Ordinance commences on the 1 January which next follows the date of assent to this Ordinance.

(2) Clause 11 commences on the date of assent to this Ordinance.

Schedule 1

Column 1	Column 2
Folio Identifier 1/501006 known as the site of St Hilda’s Church, hall, columbarium and rectory, 68 Katoomba Street, Katoomba.	The land is held upon trust for the parish of Katoomba although there are no written trusts.

Schedule 2

Column 1	Column 2
Volume 9472 Folio 144 known as the site of St Hilda’s Church, hall, columbarium and rectory, 68 Katoomba Street, Katoomba.	The land is held upon trust for the parish of Katoomba although there are no written trusts.

Notes

1. The original form of ordinance was assented to on 18 November 2003.
2. On 17 July 2008 the Finance Committee, acting under delegated authority, approved a review date of 31 December 2013 for the purposes of clause 8(2) of the Ordinance.
3. On 9 February 2016 the Manager, Diocesan Finance, in exercise of sub-delegated authority from the Finance Committee, approved under clause 8(2) of the Ordinance an extension of the review date to 1 January 2024.
4. On 21 July 2023 the Diocesan Secretary, in exercise of sub-delegated authority from the Finance Committee, approved under clause 8(2) of the Ordinance an extension of the review date to 1 January 2034.

NAOMIE NGUYEN
Lawyer

BRIONY BOUNDS
Diocesan Secretary

8 August 2023